

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DETLEF F. HARTMANN,	§
	§
Defendant Below-	§ No. 697, 2002
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID 9912000027
	§
Plaintiff Below-	§
Appellee.	§

Submitted: February 19, 2003

Decided: March 20, 2003

Corrected: January 29, 2007*

Before **WALSH, HOLLAND**, and **BERGER**, Justices.

ORDER

This 29th day of January 2007, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The defendant-appellant, Detlef Hartmann, pled guilty in March 2001 to one count of second degree unlawful sexual intercourse and two counts of unlawful sexual contact. The victim was a male minor. In November 2002, he filed a "motion to dismiss" the indictment against him claiming that the Superior Court did not have jurisdiction over the charges and that his trial counsel had been ineffective in failing to address this

* The first paragraph corrects the reference to the victim.

alleged defect. The Superior Court struck Hartmann's motion on the ground that a motion to dismiss the indictment was improper because Hartmann's convictions were final. This appeal ensued.

(2) The State of Delaware has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of Hartmann's opening brief that his appeal is without merit. We agree and affirm.

(3) In the first instance, it is clear that Hartmann was seeking relief pursuant to Superior Court Criminal Rule 61, which provides the exclusive remedy for a person in custody who is seeking to set aside a judgment of conviction on the ground that the trial court lacked jurisdiction.¹ To the extent Hartmann's motion did not comply with Rule 61, the Superior Court did not abuse its discretion in striking his motion as a nonconforming document under the rule.² More importantly, this Court has consistently rejected the substantive argument that Hartmann attempted to assert in his motion.³ The charges against Hartmann were properly within the Superior Court's jurisdiction. Accordingly, the Superior Court did not err in rejecting Hartmann's motion.

¹ DEL. SUPER. CT. CRIM. R. 61(a)(1).

² DEL. SUPER. CT. CRIM. R. 61(c)(1).

³ See, e.g., *Foster v. State*, 2002 WL 2009076 (Del. Aug. 28, 2002); *Black v. State*, 2002 WL 1998458 (Del. Aug. 27, 2002).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice